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UNITED STATES DEPARTMENT OF AGRICULTURE
FARM CREDIT ADMINISTRATION
COOPERATIVE RESEARCH AND SERVICE DIVISION
WASHINGTON 25, D. C.

February 28, 1952

**IMPORTANT NOTICE
FOR FARMERS' MARKETING AND PURCHASING
ASSOCIATIONS**

Re: INFORMATION RETURNS (Internal
Revenue Forms 1096 and 1099

Supplement No. 1 to Miscellaneous Report 156
"RECENT FEDERAL INCOME TAX CHANGES AFFECTING COOPERATIVES"
(Issued in October 1951)

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By publication in the Federal Register of February 26, 1952, the Commissioner of Internal Revenue has proposed the amendment of Income Tax Regulations 111 to conform with Section 314 (c) and (d) of the Revenue Act of 1951, which affects all farmers' marketing and purchasing cooperatives.

The Commissioner's proposal (a copy of which is attached in its entirety) is subject to change before final adoption. The Commissioner will give consideration to any data, views, or arguments pertaining to this proposal which are submitted to him in writing in duplicate before March 28, 1952. Such data, views, or arguments should be addressed to the Commissioner of Internal Revenue, Washington 25, D. C.

The following main points affecting cooperatives are contained in the proposal:

1. The filing date for reporting to the Commissioner (on Internal Revenue Forms 1096 and 1099 - see facsimile of latter, attached) patronage dividends for the calendar year 1951 is set at May 15, 1952.¹ Patronage dividends allocated to a patron within the calendar year 1951 amounting in the aggregate to \$100 or more must be reported.

2. The filing date for such patronage dividend reports covering the calendar year 1952 and subsequent calendar years is set at Feb-

ruary 28 following the close of each calendar year.

3. Cooperatives are to be permitted, under certain conditions, to obtain "a reasonable extension of time" for the filing of such forms, by applying therefor to the local collector of internal revenue before the prescribed filing date.

4. Proposed definitions are given for the terms "cooperative association," "patron," and "patronage dividends, rebates and refunds."

Brief comment on the effect of these proposals follows:

A. Cooperatives which are exempt from Federal income taxation under Sections 101 (12) and (13) of the Internal Revenue Code, as well as those which are not so exempt, must abide by the provisions recited above covering the filing of Forms 1096 and 1099 in any case where patronage dividends allocated to any patron amount to \$100 or more during the calendar year.

B. It should be emphasized that only the allocation of patronage dividends actually made during the calendar year should be reported on Forms 1096 and 1099, (even where an association has a fiscal year that differs from the calendar year). For example, any savings for 1951 or prior years allocated and disclosed to patrons

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¹This date holds good for patronage dividend reporting regardless of the fact that item 1 on Form 1096 states that information returns for 1951 must be filed by February 28, 1952. But see item H, later.

during the calendar year 1951 should be reported on Forms 1096 and 1099 for the calendar year 1951. But the payment in the calendar year 1951 of savings allocated and disclosed to patrons as patronage dividends during previous calendar years is not regarded as patronage dividends allocated in 1951 and therefore need not be reported on Forms 1096 and 1099 for the year 1951. Thus, the redemption of capital stock or other equity shares or certificates during 1951, or the payment during that year of any book credit allocated and disclosed to patrons in previous years, is not a patronage dividend in 1951. It should be noted that patronage dividends usually have two phases--first, their allocation and disclosure, and second, their payment in cash or noncash forms. It is the first phase that should be reported on Forms 1096 and 1099, regardless of when the second or payment phase occurs.

C. For the purpose of patronage dividends reporting, the Commissioner's proposed definition for the word "patron" has the effect of causing Forms 1096 and 1099 to be applicable not only to individuals but also to corporations, including other cooperative associations (despite item 3 of Form 1096 for 1951, which states that form 1099 is not to be used for distributions made to corporations).

D. There has been some doubt among cooperative associations as to the scope of the term "patronage dividends" in Section 314(c). The Commissioner's proposed definition is intended to resolve such doubts. For example, in the case of marketing associations, the term patronage dividends is not meant to include the issuance to patrons or shareholders of credits to their accounts, or of notes or share certificates of various kinds, to the extent such items result from direct payments to the association by the patrons or shareholders, nor does it include a payment to the patron out of the patron's sales proceeds if such payment is fixed without reference to the "earnings" of the cooperative association. For this purpose the proposed regulations define the term "earnings" to include "the excess of amounts retained by the association to cover expenses or other items over the amount of such expenses or other items."

E. The application of the Commissioner's proposed definition for patronage dividends in the case of a marketing association which operates

on a pooling plan is illustrated by the following example furnished by the Bureau of Internal Revenue:

A marketing association pays a patron 50 cents per unit upon delivery to it of the patron's products. It thereafter sells such products for \$1.25 per unit, remits another 50 cents per unit to the patron, and retains 25 cents per unit to cover anticipated expenses. At the close of the pool or of its fiscal year, the marketing association determines that the expenses are 20 cents per unit, and allocates an additional 5 cents per unit to the account of the patron. The allocation of 5 cents per unit (but not the previous distribution amounting to \$1) would be a patronage dividend, rebate, or refund under the proposed regulations, and must be reported.

F. It should be emphasized that farmer-patrons must report promptly in their income tax returns not only cash received for products but also noncash distributions and credits made by cooperatives in payment for products.

G. Forms 1096 and 1099 must also be used by cooperatives in reporting to the Commissioner when dividends on capital stock are paid in cash. However, in this instance the rules differ between classes of cooperatives. The exempt cooperatives are obligated only to report on Forms 1096 and 1099 dividends on capital shares that amount to \$100 or more per person for the calendar year, while the nonexempt organizations must report such dividends of \$1 or more per person for the calendar year.

H. The due date for filing Forms 1096 and 1099 when they are used to report dividends on capital shares is February 28 following the calendar year concerned. Thus the returns covering the calendar year 1951 for such items will be due on February 28, 1952 in the case of both exempt and nonexempt cooperatives.

I. Whether used for patronage dividends or for dividends on capital shares, it is advisable usually that Form 1099 be made out in triplicate. The originals must be forwarded to the Commissioner of Internal Revenue, Processing Division, C. C. Station, Kansas City 2, Missouri. One carbon copy should be sent to the patron or shareholder and the remaining copy should be

kept in the files of the cooperative. With the grouped originals should be sent, also, one signed copy of the transmittal Form 1096.

J. The sixth money column of Form 1099, entitled "Total Dividends," should be used for

the separate reporting of both patronage dividends and dividends on capital shares. It is suggested, however, that the prefix "PD" be placed before the amount covering patronage dividends. (See facsimile below.)

This report, which has been approved by the Bureau of Internal Revenue, is designed to assist farmers' cooperatives in a proper observance of the Federal income tax laws and regulations. Emphasis is placed on the fact that the proposed new regulations discussed herein are subject to possible change before their final adoption by the Commissioner.

It is suggested that whenever necessary cooperatives should consult the collector of internal revenue, attorneys, public accountants, or other competent persons for advice on specific matters relating to income taxation or exempt therefrom, and the preparation of related forms or returns.

FACSIMILE OF INTERNAL REVENUE FORM 1099

<p>Form 1099 U. S. TREASURY DEPARTMENT INTERNAL REVENUE SERVICE</p> <p>UNITED STATES</p> <p>INFORMATION RETURN FOR CALENDAR YEAR 1951</p> <p>INSTRUCTIONS TO PAYORS</p> <p>Prepare one of these forms for each payee in accordance with the instructions on return Form 1096. THIS FORM IS NOT REQUIRED WITH RESPECT TO WAGE PAYMENTS REPORTED ON FORM W-2a.</p> <p>Forward with return Form 1096 so as to reach the Commissioner of Internal Revenue, in care of Processing Division, C. C. Station, Kansas City 2, Missouri, on or before February 28, 1952.</p> <p>Copy of this form as filed with the Government should be furnished to the employee whose income is reported in first column to assist him in preparing his income tax return.</p>	<p>TO WHOM PAID</p>	<p style="font-size: 2em; font-weight: bold;">1951</p>	<p>(Print full name and home address) (Show employee's social security number, if any. If employee is a married woman, name of husband should also be furnished)</p>			
KIND AND AMOUNT OF INCOME PAID						
Salaries, Fees, Commissions, or Other Compensation. Do not include amount reported on Form W-2a	Interest on Notes, Mortgages, Etc.	Rents and Royalties	Annuities, Pensions, Alimony, and Other Fixed or Determinable Income	Foreign Items (\$600 or more)	Total Dividends (For organizations not required to report dividends under \$100, see instructions)	
(\$600 or more aggregate amount of above items)						
\$	\$	\$	\$	\$	\$	
<p>BY WHOM PAID (Name and address)</p>		<p>USE THIS COLUMN TO REPORT BOTH PATRONAGE DIVIDENDS AND DIVIDENDS ON CAPITAL SHARES, SHOWING EACH AMOUNT SEPARATELY. PLACE THE PREFIX "PD" BEFORE THE AMOUNT COVERING PATRONAGE DIVIDENDS.</p>				

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(OVER)

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

(Excerpt from Federal Register of Feb. 26, 1952)

Bureau of Internal Revenue

[26 CFR Part 29]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

RETURNS OF INFORMATION AS TO PATRONAGE DIVIDENDS, REBATES, OR REFUNDS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regu-

lations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791).

[SEAL]

JOHN B. DUNLAP,
Commissioner of Internal Revenue.

In order to conform Regulations 111 (26 CFR Part 29) to section 314 (c) and (d) of the Revenue Act of 1951 (Pub. Law 183, 82d Cong.), approved October 20, 1951, such regulations are hereby amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 29.148-1 of Regulations 111, the following:

SEC. 314. INCOME TAX TREATMENT OF EXEMPT COOPERATIVES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

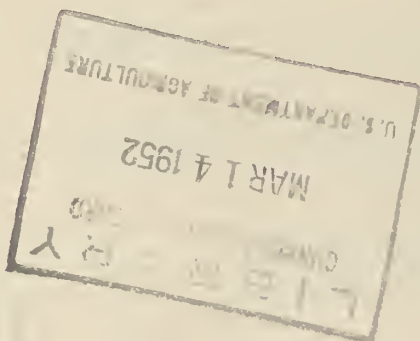
(c) Information returns. Section 148 (relating to information by corporations) is hereby amended by adding at the end thereof the following:

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM CREDIT ADMINISTRATION
WASHINGTON 25, D.C.

Official Business

FORM F197-3/52-14,000
PERMIT NO. 1001

PENALTY FOR PRIVATE USE
TO AVOID PAYMENT OF
POSTAGE, \$300



(f) *Patronage dividends.* Any corporation allocating amounts as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) shall render a correct return stating (1) the name and address of each patron to whom it has made such allocations amounting to \$100 or more during the calendar year, and (2) the amount of such allocations to each patron. If required by the Secretary, any such corporation shall render a correct return of all patronage dividends, rebates, or refunds made during the calendar year to its patrons. This subsection shall not apply in the case of any corporation (including any cooperative or nonprofit corporation engaged in rural electrification) exempt from taxation under section 101 (10) or (11) or in the case of any corporation subject to a tax imposed by supplement G.

(d) *Effective date.* * * * The amendment made by subsection (c) shall be applicable to the calendar year 1951 and subsequent calendar years.

PAR. 2. There is inserted immediately after § 29.148-3 of Regulations 111 the following:

§ 29.148-4 *Returns of information as to patronage dividends, rebates, or refunds—(a) In general.* Any corporation allocating to any patron amounts aggregating \$100 or more during the calendar year as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, rebate or refund) shall, for the calendar year 1951 and for each subsequent calendar year, render a return of information with respect to such allocation on Forms 1096 and 1099. The allocation shall be reported for the calendar year during which the allocation

is made, regardless of whether the allocation is deemed for the purpose of section 101 (12) (B) to be made at the close of a preceding taxable year of the corporation.

(b) *Contents of return; manner of making and filing.* A separate Form 1099 shall be prepared for each patron showing the name and address of the patron to whom such allocation is made, and the amount of the allocation. These forms, accompanied by transmittal Form 1096, showing the number of Forms 1099 filed therewith, shall be filed with the Commissioner of Internal Revenue, Processing Division; C. C. Station, Kansas City 2, Missouri, on or before February 28 of the following year, except that the returns for the calendar year 1951 shall be filed on or before May 15, 1952.

(c) *Extension of time for filing.* In any case in which it is impossible to file the return within the time prescribed in this section, the corporation may, upon a showing of such fact, obtain a reasonable extension of time for filing the return. Authority for granting extensions of time for filing the return of information is hereby delegated to the various collectors of internal revenue. Applications for such extensions shall be addressed to the collector of internal revenue for the district in which the corporation is required to file its income tax return, must contain a full recital of the causes for the delay, and must be submitted on or before the date prescribed for filing the return of information. No extension may be granted for more than six months.

(d) *Definitions—(1) Cooperative association.* For the purpose of this section, the term "cooperative association" includes any corporation operating on a cooperative basis and allocating amounts to patrons on the basis of the business

done with or for such patrons, except that the term does not include any corporation (including any cooperative or nonprofit corporation engaged in rural electrification) exempt from taxation under section 101 (10) or (11) or any corporation subject to a tax imposed by Supplement G (relating to insurance companies).

(2) *Patron.* For the purpose of this section, the term "patron" includes any person with whom or for whom the cooperative association does business, whether a member or a nonmember of the cooperative association, and whether an individual, a trust, estate, partnership, company, corporation, or cooperative association.

(3) *Patronage dividends, rebates, and refunds.* For the purpose of this section, the term "patronage dividend, rebate, or refund" includes any amount allocated by a cooperative association to the account of a patron on the basis of the business done with or for such patron. The following are not patronage dividends, rebates, or refunds:

(i) Amounts distributed in redemption of capital stock, or in redemption or satisfaction of certificates of indebtedness, revolving fund certificates, retain certificates, letters of advice, or other similar documents;

(ii) In the case of a cooperative association marketing the products of members or other patrons, the amount paid by the association for such products to the extent such amount is fixed without reference to the earnings of the cooperative association. For this purpose, the term "earnings" includes the excess of amounts retained by the association to cover expenses or other items over the amount of such expenses or other items.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[F. R. Doc. 52-2242; Filed, Feb. 25, 1952; 9:08 a. m.]